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Attorney for Plaintiff

/as

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

MELISSA C. TOFTEE,

Plaintiff,

V.

FRANK BISIGNANO,¹
Commissioner of Social Security,

Defendant.

Case No.: 1:24-cv-01139-BAM

STIPULATION AND ~~[PROPOSED]~~
ORDER FOR THE AWARD AND
PAYMENT OF ATTORNEY FEES
PURSUANT TO THE EQUAL
ACCESS TO JUSTICE ACT, 28
U.S.C. § 2412(d)

On September 19, 2025, this Court issued an order reversing the final decision of the Defendant, Frank Bisignano, the Commissioner of Social Security (Commissioner), with a remand for further administrative proceedings, 42 U.S.C. § 405(g) (sentence four); judgment was entered.

¹ Frank Bisignano became the Commissioner of Social Security on May 7, 2025. Pursuant to Rule 25(d)(1) of the Federal Rules of Civil Procedure, Frank Bisignano should be substituted for Leland Dudek as Defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

1 In the interest of administrative and judicial economy, the parties have agreed to stipulate
2 that an award of FIVE THOUSAND FIVE HUNDRED SEVENTY-THREE DOLLARS AND
3 FIFTY-SIX CENTS (\$5,573.56) in attorney fees under the Equal Access to Justice Act (EAJA),
4 28 U.S.C. § 2412(d), is reasonable. This award is without prejudice to Plaintiff's right to seek
5 attorney's fees under section 206(b) of the Social Security Act, 42 U.S.C. § 406(b), subject to the
6 offset provisions of the EAJA. However, this award shall constitute a complete release from and
7 bar to any claims Plaintiff may have relating to EAJA fees and costs. Further, such award shall
8 not be used as precedent in any future cases, nor be construed as a concession by the
9 Commissioner that the original administrative decision denying benefits to Plaintiff was not
10 substantially justified.

11 After the Court issues an order for EAJA fees to Plaintiff, the Government will consider
12 the matter of Plaintiff's assignment of EAJA fees to Harvey P. Sackett ("Counsel"). Pursuant to
13 *Astrue v. Ratliff*, 560 U.S. 586 (2010), the ability to honor an assignment will depend on whether
14 the fees are subject to any offset allowed under the United States Department of the Treasury's
15 Offset Program. After the order for EAJA is entered, the Government will determine whether
16 they are subject to offset. Fees shall be made payable to Plaintiff, but if the Department of
17 Treasury determines Plaintiff does not owe a federal debt, then the Government shall cause the
18 payment of fees, expenses, and costs to be made payable directly to Counsel, pursuant to the
19 assignment executed by Plaintiff. Any payments made shall be delivered and made payable to
20 Counsel.

21 Accordingly, Defendant agrees to pay Plaintiff \$5,573.56 in attorney's fees.

22 All parties whose signature lines appear in this document have consented to its filing.
23 This award is without prejudice to the rights of Sackett and Associates and/or Harvey P. Sackett
24 to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause
25 provisions of the EAJA.
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27
28

Dated: October 22, 2025

SACKETT AND ASSOCIATES

By: /s/ HARVEY P. SACKETT
HARVEY P. SACKETT
Attorney for Plaintiff
MELISSA C. TOFTEE

Dated: October 24, 2025

ERIC GRANT
United States Attorney

By: /s/LORI LOOKLISS
LORI LOOKLISS
Special Assistant United States Attorney
Attorney for Defendant
[*As authorized by email on 10/22/25]

ORDER

Pursuant to the stipulation, IT IS ORDERED that fees in the amount of FIVE THOUSAND FIVE HUNDRED SEVENTY-THREE DOLLARS AND FIFTY-SIX CENTS (\$5,573.56) as authorized by the Equal Access to Justice Act, 28 U.S.C. § 2412(d), be awarded subject to the terms of the stipulation.

IT IS SO ORDERED.

Dated: October 24, 2025

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE